

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

VANS, INC. and VF OUTDOOR, LLC,

Plaintiffs,

v.

MSCHF PRODUCT STUDIO, INC.,

Defendant.

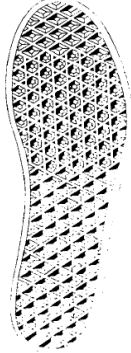




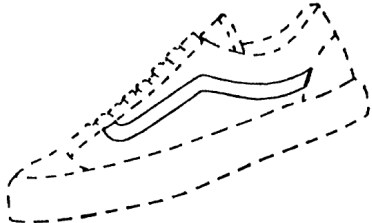
Case No. 1:22-cv-02156-WFK-RML

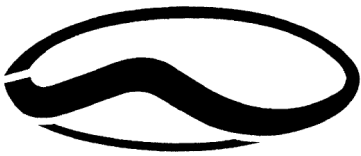


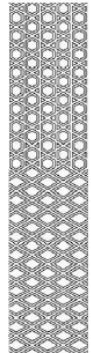

**CONSENT JUDGMENT AND
PERMANENT INJUNCTION**






This action, having come on for consideration upon the Complaint of Vans, Inc. and VF Outdoor, LLC (“Vans”), is one for infringement of Vans’ trade dress and registered trademarks, unfair competition, and dilution in violation of the Lanham Act and New York common law, as well as unfair trade practices under New York law (NY Gen. Bus. Law § 349) against MSCHF Product Studio, Inc. (“MSCHF”). Pursuant to a confidential settlement agreement between Vans and MSCHF, the parties having waived the entry of findings of fact and conclusions of law, and without trial, argument, or adjudication of any issue of fact or law, and the parties having consented to and stipulated to the entry of this Permanent Injunction under the terms provided herein:


IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. This Court has original jurisdiction over the subject matter of this action under the laws of the United States pursuant to 15 U.S.C. § 1121(a), as well as 28 U.S.C. § 1331 (Federal Question Jurisdiction); 28 U.S.C. § 1337(a) (Commerce Regulations); and 28 U.S.C. § 1338(b) (Trademark and Unfair Competition). This Court has jurisdiction of all pendent state law claims pursuant to 28 U.S.C. § 1367(a) (Supplemental Jurisdiction) because all such claims are based upon the same or substantially the same conduct by Defendant MSCHF.
2. Vans is the owner of the following trademarks, among others:

Mark	Reg. No.	Goods and Services
	1,244,537	Shoes
	1,861,882	Clothing and footwear; namely, sport shirts, T-shirts, hats, shorts, socks and shoes for men, women and children
	1,927,910	Men's, women's, and children's footwear
	2,170,961	Footwear
	2,172,482	Footwear
	2,177,772	Footwear

Mark	Reg. No.	Goods and Services
	2,206,796	Footwear and snowboard boots
	2,830,071	Clothing, namely t-shirts, pants, shorts, sweatshirts, jackets and headgear, namely, caps and hats
	4,442,122	Clothing, namely, T-shirts, shirts, sweatshirts, pants, shorts, denims, sweater, jackets, socks; Headgear, namely, hats, caps and beanies
	4,623,568	Footwear; ((men's, women's and children's clothing, namely, shirts, t-shirts,)) ((sweatshirts, hoodies)) ((socks; beanies; hats; belts for clothing))
	5,320,384	Footwear

Mark	Reg. No.	Goods and Services
	5,418,305	Footwear
	6,062,935	Providing non-downloadable, online videos featuring music performances and exhibition of art
	6,309,462	Footwear
	6,309,463	Footwear
	6,451,279	Footwear

Mark	Reg. No.	Goods and Services
	6,436,779	Footwear

3. Vans is the owner of the following trade dress, among others:

a. The “OLD SKOOL Trade Dress” consisting of a distinctive combination of source-identifying elements, including:

- the Vans Side Stripe Mark on the shoe upper;
- a rubberized sidewall with a consistent height around the perimeter of the shoe;
- the uppermost portion of the sidewall having a three-tiered or grooved appearance;
- a textured toe box outer around the front of the sidewall;
- visible stitching, including where the eyestay meets the vamp; and
- the placement and proportion of these elements in relation to one another.

4. As a result of its long use and promotion of the trademarks and trade dress referenced in paragraphs 2-3 above (collectively, the “Vans Marks”), Vans has established the Vans Marks as famous and having secondary meaning among actual and target purchasers as well as among members of the public.

5. MSCHF acknowledges and agrees as to the existence and validity in the United States of the Vans Marks, and the ownership thereof by Vans.

6. MSCHF admits that it has used versions of the Vans Marks as pictured in the attached Exhibit A.

7. MSCHF admits that it sold the shoes pictured in Exhibit A in the United States through its mobile application—the “MSCHF Shoes” application for Android and iOS devices.
8. The use of the Vans Marks as pictured in the attached Exhibit A constitutes trademark infringement pursuant to 15 U.S.C. § 1114 and New York common law, trade dress infringement, unfair competition, and trademark dilution pursuant to 15 U.S.C. § 1125 and New York common law, and unfair trade practices pursuant to NY Gen. Bus. Law § 349.
9. Judgment is entered for Vans on all of its claims against MSCHF.
10. The Court therefore ORDERS that Defendant MSCHF and its agents, officers, employees, attorneys, and all persons who are in active concert or participation with MSCHF are permanently enjoined and restrained from:
 - a. Advertising, marketing, distributing, importing, manufacturing, promoting, offering for sale, or selling the sneakers shown in Exhibit A (the “Infringing Shoes”), any other colorways of these same shoe designs, colorable imitations of the shoes shown in Exhibit A, and/or facilitating, inducing, or assisting any of the foregoing conduct;
 - b. Using the Vans Side Stripe Mark, OLD SKOOL Trade Dress, or any of Vans’ registered trademarks shown and defined in paragraph 2-3 above, and/or any trade dress or trademark that is substantially similar thereto, on or in connection with MSCHF’s shoes or related goods or services;

- c. Making any statements on promotional materials or advertising for its goods or services that are false or misleading as to source or origin or affiliation with, sponsorship by, or connection to Vans; and
- d. Doing any other act or thing likely to confuse, mislead, or deceive others into believing that MSCHF or its goods emanate from, or are affiliated or connected with, or sponsored or approved by, Vans.

11. This Consent Judgment and Permanent Injunction shall take effect immediately.

12. The Court retains jurisdiction to enforce the terms of this Consent Judgment and Permanent Injunction, as well as to enforce the terms of a separate Settlement Agreement entered into between Vans and MSCHF with respect to the subject matter of this action.

13. There being no just reason for delay, the Clerk of this Court is hereby directed, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, to enter this Consent Judgment and Permanent Injunction forthwith.

SO ORDERED.

HON. WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE

Dated: August _____, 2024
Brooklyn, New York

The parties hereby consent to the entry of the foregoing Consent Judgment and Permanent Injunction and waive any and all rights of appeal.



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Exhibit A to the Consent Judgment and Permanent Injunction

*Vans, Inc. and VF Outdoor, LLC v. MSCHF Product Studio, Inc.,
No. 1:22-cv-02156-WFK-RML (E.D.N.Y.)*

